

REMARKS

[0003] Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 CFR. § 1.116 as they place the application in better form for appeal, or for resolution on the merits.

[0004] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1, 3-18 and 37 are presently pending. Claims 1, 4-9, 11, 13-15, 18 and 37 are amended herein. No claim has been withdrawn or cancelled herein. No new claims are added herein.

Statement of Substance of Interview

[0005] The Examiner graciously talked with me—the undersigned representative for the Applicant—on October 28, 2008. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0006] During the interview, I discussed how the claims differed from the cited references. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0007] The Examiner was receptive to the proposals, and I understood the Examiner to indicate that the proposed clarifying claim amendments appeared

to distinguish over the cited art of record. However, the Examiner indicated that he would need to review the cited art more carefully and/or do another search, and requested that the proposed amendments be presented in writing.

[0008] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited references of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0009] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can discuss this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0010] Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

Request for Withdrawal of Finality

[0011] In accordance with MPEP 706.07(d), Applicant submits that the final rejection is premature. Applicant formally asks that the Examiner reconsider finality of the rejections in this Action. Applicant submits that the Examiner

should withdraw finality because this Office Action failed to provide specific claim rejections and/or reasoning for those rejection with regard to dependent claim 9.

[0012] According to 37 CFR § 1.113 and MPEP 706.07, the “examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal.” “The invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied.”

[0013] While the Office Action provides a blanket rejection that includes claim 9, the Office Action fails to address claim 9 with specificity. In other words, the Office Action does not cite any references (alone or in combination) that disclose all of the elements of claim 9 and in their particular claimed arrangement. Furthermore, the Office Action fails to provide any reason why one of ordinary skill in the art would combine the cited references.

[0014] Applicant submits that the Office has generally failed to articulate the reasons for its decision-making. Accordingly, Applicant requests that the Office withdraw finality and completely re-examine all of these claims anew.

Claim Amendments

[0015] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 4-9, 11, 13-15, 18 and 37 herein. Applicant amends claims to clarify claimed features. Such

amendments are made to expedite prosecution and to more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

Substantive Matters

Claim Rejections under § 112, 2nd ¶

[0016] Claims 1 and 3-18 are rejected under 35 U.S.C. § 112, 2nd ¶. Applicant respectfully traverses this rejection. Furthermore, in light of the amendments presented herein, Applicant submits that this rejection is moot. Accordingly, Applicant asks the Examiner to withdraw this rejection.

Claim Rejections under §103

[0017] Claims 1 and 3-18 has been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,675,387 issued to Boucher et al. in view of U.S. Patent 6,785,334 issued to Van der Schaar in further view of U.S. Patent No. 6,510,553 issued to Hazra in further view of U.S. Patent No. 6,901,155 issued to Xia et al.

[0018] Claim 37 has been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,039,113 issued to Soundararajan in view of Schaar in further view of Xia.

[0019] In light of the arguments presented herein and the decisions reached during the above-discussed Examiner interview, Applicant submits that these rejections are inappropriate. Accordingly, Applicant asks the Examiner to withdraw these rejections.

Overview of the Application

[0020] The Application describes a technology for encoding and transmitting a static image at a lower than maximum quality and then improving the quality of the image or parts thereof over time, if the image is indeed static.

Cited References

[0021] The Examiner cites Boucher and Soundararajan as the primary references in the obviousness-based rejections. The Examiner cites Schaar, Hazra and Xia as the secondary references in the obviousness-based rejections.

Boucher

[0022] Boucher describes a technology for preparing multimedia data using pre-rendering and encoding techniques that format the video image data into fat macroblocks.

Schaar

[0023] Schaar describes a technology for determining the number of transmission bits of SNR encoded and temporally encoded video data within a frame to balance image quality and object motion.

Hazra

[0024] Hazra describes a technology for streaming video from multiple sources over a network.

Xia

[0025] Xia describes a technology for performing automated biological identification.

Soundararajan

[0026] Soundararajan describes a technology for an MPEG decoding system that selectively decodes MPEG enhanced streams, based on a select identification of an enhancement region of a series of image frames.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0027] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

Independent Claim 1

[0028] Applicant submits that combination of Boucher, Schaar, Hazra and Xia does not teach or suggest at least the following elements as recited in this claim (with emphasis added):

- "determining a macroblock of the image, the macroblock being less than the entire image, **the macroblock being determined by changes occurring in the macroblock during image generation**"

[0029] The Examiner indicates (Action, p. 3-4) the following with regard to this claim:

base layer). Xia teaches "transmitting enhancement data for an image, wherein the portion of the image is less than the entire image, the portion being determined by changes occurring in the portion during image generation" (Xia: column 7, lines 44-52, wherein the foreground blocks are enhanced. By

determining the foreground and background blocks, Xia is determining the portions of the image that change (since the background blocks are normally static)). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Boucher, add the enhancement schemes taught by Schaar and Hazra, and add the processing taught by Xia in order to obtain an apparatus that efficiently utilizes available network bandwidth.

[0030] Applicant respectfully traverses the Examiner's analysis of Xia. Specifically, Xia fails to teach or suggest to one of ordinary skill in pertinent art that the portion of the image is "determined by changes occurring in the macroblock during image generation" as claimed in independent claim 1.

[0031] Xia teaches that "a smoothing process and an enhancing process is imposed on every foreground block image." (See Xia, col. 7, lines 46-48). Contrary to the Examiner's contention that Xia determines the portion (i.e., the foreground) of the image to enhance based on changes, Xia actually teaches that Xia determines a foreground by comparing "the mean value and variance of [a] block with a predetermined threshold." (See Xia, col. 7, lines 14-17). The variance described by Xia is not the "change occurring in the portion during image generation" (as claimed in independent claim 1) but is instead the difference in the intensity of the foreground block versus the predefined threshold. (See Xia, col. 6, line 57 through col. 7, line 18).

[0032] As can be seen from reading the present specification, "changes occurring in the macroblock during image generation" can generally be described as being the "change being requested in the macroblock by [the] image source 102, in [the] course of image generation." (See Application, p. 7, lines 27-32). Xia cannot teach or suggest "determining a portion of the image ... by changes occurring in the macroblock during image generation" as Xia is not comparing a first macroblock to a second macroblock but is instead comparing a portion (a foreground block) to predefined threshold. Xia's teaching is fundamentally different and as such cannot teach or suggest "determining a macroblock of the image, the macroblock being less than the entire image, the macroblock being determined by changes occurring in the macroblock during image generation" as presently claimed in independent claim 1.

[0033] As shown above, the combination of Boucher, Schaar, Hazra and Xia does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 3-18

[0034] These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 37

[0035] Applicant submits that combination of Soundararajan, Schaar, and Xia does not teach or suggest at least the following elements as recited in this claim (with emphasis added):

- "identifying first and second portions of the image, by utilizing changes occurring in the first and second portion during image generation"

[0036] The Examiner indicates (Action, p. 7) the following with regard to this claim:

to the first and second portions of the image" (Schaar: figures 1-3). Xia teaches "identifying changes in a first and second portion by utilizing changes occurring in the first and second portions" (Xia: column 7, lines 44-52, wherein the portions are the foreground and background). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Soundararajan, add the comparing taught by Schaar, and add the identification taught by Xia in order to obtain an apparatus that utilizes the entire network bandwidth.

[0037] Applicant again respectfully traverses the Examiner's analysis of Xia's teachings. Xia fails to teach or suggest identifying first and second macroblocks of the image by "utilizing changes occurring in the first and second macroblock during image generation." Xia does not measure change in the macroblock, but instead measures variance of the foreground block from a predefined threshold. As discussed previously when discussing independent claim 1, the differences in

determining/identifying macroblock of an image is fundamental. Xia does not teach or suggest measuring changes within the macroblock. As such, the cited combination fails to teach or suggest each and every element of independent claim 37. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Conclusion

[0038] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call or email me at your convenience.

Respectfully Submitted,

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Representatives for Applicant

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